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ARIZONA ATTORNEY GENERAL

January 3, 1951
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N/R

Mr. Harold L. Kautz
Chandler City Attorney
Chandler, Arizona

Dear Mr. Kautz:

This is in reply to your letter of December 27, 1950 wherein we assume that you are asking if the city could appoint the elected Justice of the Peace as Town Magistrate although he resides outside of the city limits. You are advised that it appears to us that this question is answered by the Constitution. Section 15 of Article 7 reads as follows:

"Officers to be qualified voters.--
Every person elected or appointed to any office of trust or profit under the authority of the state, or any political division or any municipality thereof, shall be a qualified elector of the political division or municipality in which said person shall be elected or appointed, provided, however, that this section shall not apply to the city manager in incorporated cities operating under a city management form of government."

We would likewise cite to you Section 12-404 ACA 1939, which reads in part as follows:

"Vacancy by law.-- An office shall be deemed vacant from and after the happening of either of the following events before the expiration of the term: * * * his ceasing to be an inhabitant of the state or, if the office be local, of the district, county, city or precinct for which he

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was chosen or appointed, or within
which the duties of his office are
required to be discharged; * * *

The word "inhabitant" is defined in Section 1-103 ACA 1939
as follows:

" * * * 'inhabitant' means a
resident of a city, village,
district, county, or precinct;
* * *

From this constitutional provision, and these sections
of the Code, it appears to us that the city may not legally
appoint the elected Justice of the Peace as police magistrate
for the Town of Chandler unless he is a qualified elector of
the City of Chandler.

We trust this answers your question in the proper manner
and it is our pleasure to serve you.

Yours very truly,

FRED O. WILSON
Attorney General

CHAS. ROGERS
Assistant Attorney General

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